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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,389	02/27/2004	Ian Boddy	71486-0069	1402
20915	7590	10/19/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503				CHERRY, EUNCHA P
		ART UNIT		PAPER NUMBER
				2872

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/708,389	BODDY ET AL.
	Examiner	Art Unit
	EUNCHA P. CHERRY	2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 August 2005.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner..

10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION****Claim Rejections - 35 USC § 103**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugno et al (US 6,140,933) in view of Willmore et al (US 6,094,027).

Regarding claims 1-9 and 12-16, Bugno et al discloses a vehicular rearview mirror assembly, comprising: a frame (Fig. 6, 120), a reflective element attached at the frame for providing an occupant of the vehicle with a rearward view (140), a tilt actuator attached at the frame and the reflective element for selectively tilting the reflective element relative to the frame (501), a positional memory element (64) located away from the tilt actuator and interposed between the frame and the reflective element (400 and see column 8, lines 54-58), wherein a position of the reflective element is correlated to an output signal from the positional memory element so that movement of

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the reflective element from a first position to a second position results in a change in said output signal (see column 8, lines 45-67). The positional memory element can be selectively attached and removed from between the frame and the reflective element without requiring disassembly of the tilt actuator (due to these devices are apart from each other). The positional memory element is mounted to the frame in a chamber separate from the attachment of the tilt actuator to the frame (see Fig. 6). The positional memory element is located adjacent to a pivot point located between the reflective element and the frame (see Fig. 6). The reflective element can be returned to the first selected position by actuating the tilt actuator until the positional memory element generates an electrical output signal which is identical to the first electrical output signal (inherent). The positional memory element is electrically energized (see Fig. 7B). the frame is a housing for the mirror (see Fig. 6). The assembly further comprises a sensor (500) and sensor detects the output signal via hall effect or a magnetic resonance effect (see column 8, lines 58-61) or contact or without contact.

The tilt actuator of Bugno et al is not motorized tilt actuator as amended. Willmore et al disclose a motorized tilt actuator (see abstract). It would have been obvious to one of

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ordinary skill in the art to make the tilt actuator of the present invention as taught by Willmore et al because these are functional equivalent in the art, choosing one over the other would be within the level of ordinary skill as being motivated that the motorized actuator has benefits due to easier control of tilting mechanism.

Regarding claims 10 and 11, Bugno et al discloses the claimed invention as set forth above except that a wiper is associated with the positional memory element. However, Bugno et al discloses that the positional memory element of Bugno et al may be include the function of controlling other devices (see column 9, lines 34-54). It would have been obvious to one of ordinary skill in the art to utilize the memory element to include the function of controlling other devices to minimize having more memories devices by integrating into fewer memory elements.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. However, in response to the argument that the prior art does not disclose "the positional memory located away from

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the motorized tilt actuator", applicant is directed to figure 6, where element 400 is located away from the tilting mechanism.

Therefore, the rejection is deemed proper.

### **Conclusion**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

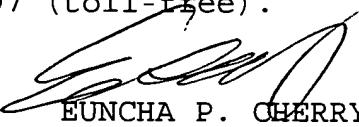
Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUNCHA P.

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CHERRY whose telephone number is 571-272-2310. The examiner can normally be reached on M-F 6:30-4:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DREW DUNN can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EUNCHA P. CHERRY  
Primary Examiner  
Art Unit 2872